

FY04 Targeted Enforcement Initiatives

Spurring Completion of Stalled Urban Cleanups

In many Massachusetts communities – particularly congested urban areas and old mill towns – the only remnants of once-thriving industries are abandoned buildings, contaminated land and neighborhood blight. These properties are not only eyesores; they may pose safety hazards and health risks to those people who live, work, and play nearby.

Under state environmental regulations, the cleanup of these oil and hazardous waste sites depends primarily on property owners or other responsible parties and the Licensed Site Professionals (LSPs) they hire to perform assessments and

implement remediation plans. When responsible parties fail or refuse to act, DEP is empowered to step in and pay for cleanups using state funds, then secure the public debts incurred by placing liens on properties and seeking to recover up to triple its cleanup costs from the owners.

In FY04, DEP initiated Notice of Response Action proceedings against the owners of 13 contaminated sites across Massachusetts who were dragging their feet in assessing contamination, planning for cleanup, and getting the job done. Rather than face the prospect of paying three times what it would cost them to act voluntarily, seven of the owners sat down with

DEP and agreed to accelerated cleanup schedules. The other six stonewalled, prompting the agency to issue unilateral orders with large penalties for missed deadlines.

Where appropriate, DEP will continue this approach in the future. The Department is making it plain that one way or another, those responsible for assessing and cleaning up hazardous waste sites in Massachusetts will either meet their obligations or pay a price for letting their contaminated properties languish. ■



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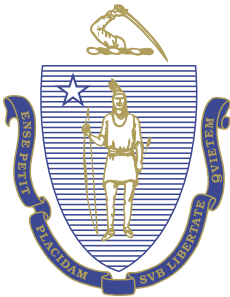
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Department of Environmental Protection

ENFORCEMENT

2004: A Record Year for Environmental Enforcement in Massachusetts

The Department of Environmental Protection (DEP) cracked down on environmental violators at a record pace in state fiscal year 2004. High-level enforcement actions increased by 54 percent, and the total value of administrative penalties issued by the Department increased by 49 percent over FY03. Total penalties for environmental violations – including civil and criminal fines obtained in court by the Attorney General and the value of alternative environmental projects – rose from a five-year annual average of \$7.7 million to an all-time high of \$12.3 million in FY04.

Enforcement actions are critical components of DEP’s integrated strategies to address environmental problems. The deterrence effect of a credible enforcement program – if you break the law and damage the environment or place people’s health at risk, DEP will catch you and you will pay – is fundamental to the success of our core environmental protection efforts.

In FY04, DEP launched three targeted enforcement initiatives aimed at specific activities with great potential harm to the environment and human health: illegal filling of wetlands; improper handling and disposal of asbestos; and the delayed cleanup of urban waste sites.

Real environmental benefits – restored wetlands, safer schools and workplaces, and healthier neighborhoods – resulted from these efforts.

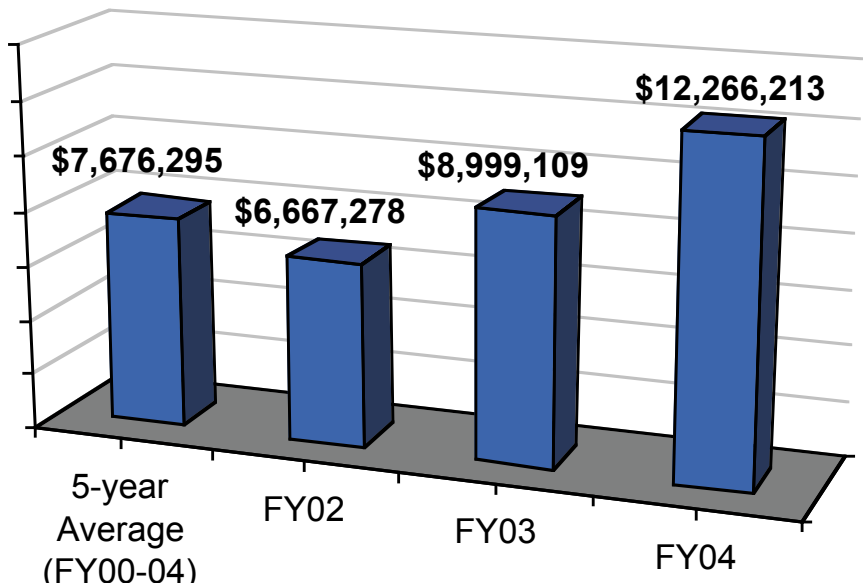
DEP launched three targeted enforcement initiatives... Real environmental benefits – restored wetlands, safer schools and workplaces, and healthier neighborhoods – resulted from these efforts.

In FY05 and beyond, DEP will continue to support effective and credible compliance and

enforcement initiatives by dedicating staff resources to compliance and enforcement activities in the field, and investing in technologies that support targeted enforcement and expand our capability to accept online filing of permits, reports and certifications. Increased automation will lead to better results and ensure that the Department maintains its presence in the field.

For a complete report on all of the Department’s enforcement activity in FY04 see the “Department of Environmental Protection Compliance and Enforcement Annual Report for Fiscal Year 2004” on the DEP web site at [mass.gov/dep/enf/04enforce.htm](http://mass.gov/dep/enf/04enforce.htm) ■

Total Environmental Penalties Assessed: Administrative, Civil and Criminal



FY04 Targeted Enforcement Initiatives

Stopping Illegal Wetlands Filling with High-Tech “Eyes in the Sky”

Wetlands are natural filters, protecting drinking water and groundwater supplies, providing buffers against floods and storms, and providing valuable wildlife, fisheries and shellfish habitat.

Half or more of wetlands lost in Massachusetts each year are the result of illegal filling. Much of this illegal activity occurs literally out of sight: violators never apply for permits from local conservation commissions, and the filling takes place in areas not visible from public rights of way.

But now, using sophisticated computer programs to compare and analyze aerial photographs taken over the last several years, DEP has developed a new way to identify previously undetected illegal filling of sensitive wetlands.

Within six months, DEP successfully concluded ten enforcement cases, ordered the restoration of 25 acres of illegally filled wetlands, assessed more than \$680,000 in penalties, and referred two violators to the Attorney General for civil prosecution. In the year ahead DEP will continue its high-tech offensive to restore damaged wetlands, punish those who have unlawfully filled them, and deter others from doing the same. ■



Between 1995 and 2001, nearly an acre of wetlands at this site in Amesbury received 8 to 10 feet of fill, concrete rubble was buried in the buffer zone, and buildings were constructed on the filled wetlands. DEP issued a \$100,000 penalty and required restoration of the damaged wetlands.

FY04 Targeted Enforcement Initiatives

Protecting People From Exposure to Asbestos

Asbestos is a naturally occurring material often used in insulation, fireproofing, ceiling and floor tiles, shingles, and other building materials. When asbestos fibers become airborne and people inhale them, they can scar the lungs and eventually lead to cancer. Children are especially at risk since their lungs are still developing and, pound for pound, they breathe 50 percent more air than adults.

For these reasons, demolition and renovation work involving asbestos-containing materials needs to be performed with great care. Unfortunately, too many contractors and property owners cut corners and skip required workplace safeguards – placing themselves, residents, tenants, visitors and neighbors at risk of asbestos exposure and lung damage.

Last winter, DEP launched an enforcement sweep targeting illegal asbestos removal, handling

and disposal at work sites across Massachusetts. DEP inspectors made unannounced visits at night,

Protecting children in school is on the top of DEP’s priority list...

on weekends and even during February school vacation week. These inspections resulted in 77 enforcement cases. Contractors and property owners who illegally



removed, handled and disposed of hazardous asbestos were hit with more than \$2.1 million in penalties. Protecting children in school is on the top of DEP’s priority list, and ten of these cases were brought against contractors placing kids at risk by performing substandard work at schools. Thirty-three cases focused on residential sites where homeowners and neighbors were put at risk by improper removal of friable asbestos, asbestos plumbing insulation and exterior asbestos shingles.

Cracking down on illegal removal, handling and disposal of asbestos reduces the public health risk of exposure to this hazardous material. With this risk reduction goal in mind, DEP’s enforcement sweep strategy sought opportunities for further risk reduction rather than solely focusing on assessing penalty dollars. In one case, a contractor found to be illegally managing asbestos at a fire station in one town agreed to properly complete an asbestos abatement project at a public school in a neighboring community. ■

